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In re Application of :
ROSSI et al :
Serial No.: 10/524,233 :Decision on Petition
Filed : 25 August 2005 :
Attorney Docket No.:RIGL-047 :

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 21 June 2007 requesting reconsideration of the restriction requirement. The petition was only recently forwarded to the deciding official. The delay in acting upon this petition is regretted.

BACKGROUND AND DISCUSSION

This application is a national stage filing under 35 USC 371 of PCT/US03/24550, filed on 6 August 2003, as and such, is eligible for unity of invention practice under PCT Rules.

On 30 May 2007, the examiner mailed a restriction requirement in which claims 1-30 were divided into 3 groups.

On 21 June 2007 Applicants elected Group I with traverse. Applicants also filed this petition on 21 June 2007.

On 5 September 2007, the examiner considered the restriction requirement and made it FINAL.

On 5 December 2007, applicants filed papers in response to the Office action.

The petition and file history have been carefully considered. 37 CFR 1.144 requires that a petition for restriction be filed AFTER the restriction requirement is made final by the examiner.

37 CFR 1.144. Petition from requirement for restriction.

After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

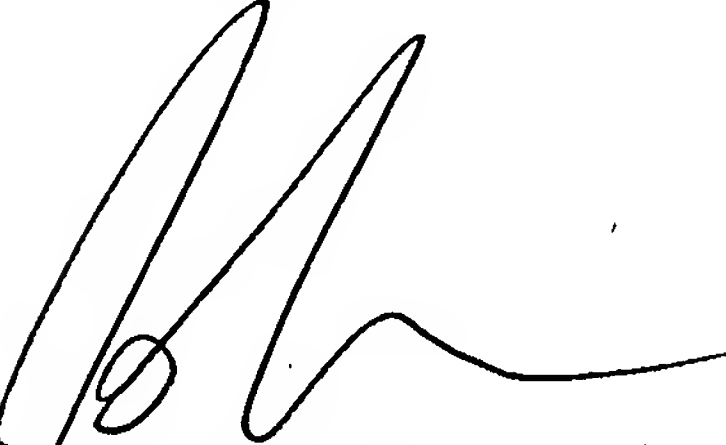
In this instance, the petition was filed prior to the finality of the restriction requirement. As such, the petition is premature.

DECISION

The petition is **DISMISSED** as untimely.

The application will be forwarded to the examiner to prepare an Office action addressing the papers filed on 5 December 2007.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.



John LeGuyader
Director, Technology Center 1600